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Patents

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Patents

By HAZEL B. SCOTT*

Patents are a controversial subject in these days of the New Deal, and without doubt there is much to be said for and against them. However, the fact remains that we do have them and the accountant should be somewhat familiar with them.

In the past the main countries other than our own in which Americans have sought patent protection have been Canada, Great Britain, France and Germany as these countries have been our chief competitors in the world's markets. The period of protection for the patentee varies from fifteen to eighteen years. In this country it is seventeen years.

With regard to the accounting angle, it must be remembered that patents are intangible assets and that their actual value depends upon their earning power. A patent may be of value because it creates a monopoly and consequently a higher price can be charged for the product; or it may reduce the cost of production of a product below that of competitors by some more efficient method of manufacture. In other cases it may be valuable when taken in conjunction with other patents while being comparatively worthless in itself. Inasmuch as it is extremely difficult to foresee a patent's possible future earning power the value usually placed upon it is the purchase price, or, if it has been developed from a patent application, the actual expenditures pertaining thereto—research costs, development expenses, legal charges and government filing fees.

In actual practice I have found it

simpler to charge patent application costs to an account so named, keeping a record of each application and showing the following information: costs of research, development, application preparation, amendments, assignment, interference, appeal, drawings and disbursements, total cost, capitalizations and charge-offs. For this purpose I use a regular thirteen-column pad in a binder, allotting four applications to each sheet. Under the Title heading, which is placed in the Name space, the name of the application appears as well as the Serial Number, Interference Number, if any, and finally the Patent Number when it issues. Most of the headings are self-explanatory. However, under the Application Preparation only the legal charges are entered and under Amendments are entered all answers to the Patent Office Actions. Drawings and Disbursements heading covers the actual cash expenditures of the patent attorneys in conjunction with the application, such as traveling expenses and filing fees or the charges of outside draftsmen.

The total costs of the patent application are kept by years, as frequently several years elapse from the first filing until its issuance, abandonment or final rejection. These yearly costs are either capitalized or charged off to legal expense or to an appropriate account, such as experimental and development.

The Internal Revenue Department does not insist upon capitalization of an application when it is apparent it is worthless, or when its future is doubtful, but as a matter of practice, I believe most accountants favor capitalization because of our mounting taxes. If the application later proves worthless and is abandoned or finally rejected by the Patent Office it is a simple matter to charge it off.

*Mrs. Scott is Michigan born, but western educated. Starting with the United Lens Corp. in 1930 as secretary-treasurer and office manager, she became general manager in 1937 and has since succeeded to the presidency. She and her husband find themselves with a little time on their hands this winter for the first time as their daughter is married, one son in the army, a ward away at college, and only two small sons are at home.

The abandonment of a patent application is a flexible thing because six months are allowed for answers to Patent Office Actions. If these six months fall in the one year and it is deemed expedient to have the charge-off fall in the next year an answer may be filed by the patent attorneys further prolonging the case. Of course a final rejection by the Patent Office, if not appealed by the owner of the application, leaves the accountant no recourse but to charge it off in the current year.

The actual accounting with regard to amortization of patents is simple—the purchase price of a patent is amortized over its remaining life. When a patent application is developed and issues into a patent the total cost is amortized over the period of time allowed by the grantor country.

For income tax purposes infringement suits are deductions authorized by law where the patents have been adjudicated previously; otherwise they claim that it increases the value of the patent or patents in suit. Damages recovered for infringement are income in the year in which they are received unless the book value of the patent has been reduced, in which case they are chargeable against the patent cost.

Should you, as an accountant, be asked by a client or employer regarding filing on a device or a process, you undoubtedly would advise him to consult a good patent attorney without delay. Time is very important as the Patent Office allows only a short period to elapse between the conception of an idea and the filing upon it. Tell the inquirer to take in a sketch or a plan or mod-

el if he already has one. The attorney will make a search of prior art for a small sum and if the idea has not already been covered he will be in a position to give your client some idea as to the probable cost of a patent. Frequently he can offer some practical suggestions as to the development of the device and its reduction to practice.

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From the Mailbag

“. . . would it be possible to have a Question and Answer section to which members could send problems bothering them and get answers from interested members? For instance, right now I have been wondering a great deal about price controls. How far can we go? How can costs be determined? I would like to get reactions from other members or know of their experiences either in the previous or present wartime. . . .”

“. . . also please let me know what the deadline is on the next issue. . . .” (Editor's note—the 23rd is being tried, so that the Bulletins will reach the chapter secretaries in time to be included with the notices.)

“. . . Treasury Department regulations limit the members of the Treasury Bar in respect to the amount of personal information which may be given to the public in connection with the printing of an article or in respect to making a speech. If the office address of the author is given, or the name of the firm with which he is connected, the Treasury Department classifies it as advertising, which is specifically prohibited by the Treasury regulations. . . .”

★ ★ ★

The art of using moderate abilities to advantage wins praise, and often acquires more reputation than actual brilliancy.

—La Rochefoucauld